

Kaur *v.* Mueller *et al.*

Plaintiff, JASWINDEER KAUR, is a lawfully permanent resident of the United States residing within the jurisdiction of this Court. Plaintiff's claim for relief arises under 8

INTRODUCTION

Plaintiff, through undersigned counsel, alleges as follows:

ASWINDER KAUR
Plaintiff,
V.
PETITION FOR A HEARING IN ON
NATURALIZATION APPLICATION
CIVIL Action No.: 4993 200

EMO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

61111-1-1

JASWINDER KAUR
Attorneys for Plaintiff

Office: (650) 591-1216 Facsimile: (650) 649-1893

MAIDAN AHLIWALLA, Esq. (SBN # 175664)
AHLIWALLA LAW PROFESSIONAL CORPORATION
1301 Shoreway Road, Suite 180

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was interviewed by an Immigration Officer, C. Chang, at the USCIS Bakresheld Office on
Exhibit 2, I-797, Notice of Action with stamp/notation from the US CIS. Subsequently, Plaintiff
July 22, 2005. The plaintiff appeared for such fingerprinting and fingerprints were taken. (See
California. (See Exhibit 1, I-797 Recipient Date). Plaintiff was asked to appear for fingerprinting on
or about June 21, 2005 with the USCIS California Service Center ("CSC") in Laguna Niguel,
Plaintiff to become a Naturalized Citizen of the United States. The N-400 Application was filed on
on a Form N-400, Application for Naturalization, (hereafter "the Application") in order for
Plaintiff. This action is brought to compel Defendants to perform a duty Defendants owe to
Immunities secured to plaintiff to compel Defendants to take action to take action
4. This action is brought to address the deprivation of rights, privileges and
under 28 U.S.C. §2201.

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1651 and 5 U.S.C. §701 et seq. Relief is requested pursuant to the aforementioned statutes and
3. This Court has jurisdiction of the action pursuant to 28 U.S.C. §§1331, 1331,
applications for naturalization
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Plaintiff, David Still is the District Director of San Francisco USCIS district and is sued here in
USCIS Office and is sued here in his official capacity. His or her exact name is unknown to the
Plaintiff. Defendant Doe 1 is the Field Office Director for the Bakresheld
here in his official capacity. Defendant Doe 1 is the Field Office Director for the Bakresheld
and is sued here in his official capacity. Emilio Gonzales is the director of USCIS and is sued
capacity. Defendant Michael Chertoff is the Secretary of the Department of Homeland Security
Investigations ("FBI"), an agency of the United States government and is sued here in his official
2. Defendant Robert S. Mueller III is the Director of the Federal Bureau of
U.S.C. § 1427.

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November 14, 2005, and did not pass the English language and history and government tests. (See Exhibit 3, Form N-652, Naturalization Interview Results). Plaintiff appeared again for another interview on February 2, 2006 and was interviewed by Immigration Officer G. Hernandez. She was verbally advised that she has passed the English language and history and government tests and that "her husband's death certificate is needed to complete the application". She was given Form N-14. (See Exhibit 4). The death certificate of husband has no bearing on eligibility or otherwise such death certificate to the US CIS. (See Exhibit 5, a copy of cover letter to the US CIS from the Plaintiff). After over one and half years since the interview, plaintiff still awaits the decision. She has made several other attempts including but not limited to, (1) writing to US CIS to inquire herself (See Exhibit 6, a letter dated June 4, 2006- four months after the interview), seeking help from Congressman's office (See Exhibit 7 and 7a, letters from Congressman Dennis Cardoza dated August 8, 2006 and November 21, 2006) and personal inquiry (by her son) on September 17, 2007. Certainly more than 120 days have passed since the interview in this matter, thus vesting jurisdiction with this court under 8 U.S.C. § 1447.

3. Plaintiff is eligible to have her Application adjudicated and approved. There are no grounds for ineligibility.

4. Defendants, the Department of Homeland Security and U.S. Citizenship and Immigration Services (USCIS), are charged by law with the statutory obligation to adjudicate this Application.

5. Venue is proper under 28 USC §1391(e) because the Plaintiff resides in this district and no real property is involved in this action. Plaintiff resides in Modesto, CA now and US CIS is informed of such new address. The application for Naturalization is also filed and Plaintiff v. Mueller et al.

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17. Defendants' refusal to act in this case is as a matter of law, arbitrary and not in

CLAIMS

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that plaintiff's application is still pending for the completion of all necessary background checks.

12. Plaintiff has inquired about the status of her case and the Service has indicated

date of the interview.

years have elapsed since plaintiff was fingerprinted and over two years have passed since the
11. Defendants have taken no action on plaintiff's case despite the fact numerous

plaintiff's application remains pending.

10. To date, plaintiff's FBI criminal record/name check has not been completed and

check. No other reason for delay has been cited.

11. advised that her application has not been adjudicated pending an FBI criminal record/name

independently qualified. (See Ex. 4, Form N-14). She has made several inquiries and has been

12. Application since she did not derive her lawful resident status from her husband and is

13. present her husband's death certificate- a document with no bearing on Naturalization

14. successfully passed the English language and history and government tests but was advised to

15. USCIS Office on February 2, 2006 in connection with his application for naturalization. Plaintiff

9. Plaintiff was interviewed (second time) by Immigration Officer at the Bakersfield

7. with the California Service Center. (See Ex. 1)

7. On June 21, 2005, Plaintiff filed her Form N-400, Application for Naturalization,

FACTS

2. Pending with Bakersfield USCIS. Subsequent to change in address, US CIS has not transferred
1. the file to another office.

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Respectfully submitted this 26th day of September, 2007.

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Equal Access to Justice Act.

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(c) Grant reasonable Attorney's fees and costs of Court to Plaintiff under the

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circumstances; and

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(b) Grant such other and further relief as this Court deems proper under the

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adjudication and approval of the Naturalization Application; and

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(b) Or, in the alternative, remand the matter to US CIS for immediate

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(a) Adjudicates the Naturalization Application in the court and by the court,

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20. **WHEREFORE**, Plaintiff prays that the Court:

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functions delegated to them by law and regulation.

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naturalization application and have failed to carry out the adjudicative and administrative

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sees, are unlawfully withholding and /or unreasonably delaying action on Plaintiff's

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21. Defendants, in violation of the Administrative Procedures Act, 5 U.S.C. §701et.

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the only agency which has the legal authority to grant citizenship.

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20. Plaintiff does not have an alternative, fully adequate remedy available. US CIS is

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19. Plaintiff has a clear right of the relief requested. She is fully eligible.

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Defendants to act in accordance with their duties under the law.

18. Plaintiff has been, and continues to be greatly damaged by the failure of

the intentions to file the Petition with the District Court and they even failed to respond.

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to adjudicate the application numerous times. The Plaintiff's attorney has even informed them of

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accordance with the law. It definitely is no "within rule of reasons". Defendants have been asked

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Attorney for Plaintiff

1. Form I-797 indicating CSC receipt date of N-400, June 21, 2005.

2. Form I-797 from US CIS scheduling Plaintiff for the fingerprinting and fingerprinting completion on September 6, 2005.

3. Form N-652, Naturalization Interview, for first interview.

4. Form N-14, issued by US CIS after interview date of 2/2/2006 asking for husband's death certificate.

5. Plaintiff's cover letter submitted alone with death certificate on 2/20/2006.

6. Plaintiff's inquiry letter dated 6/4/2006.

7. a. Letter from Congressman dated 8/8/2006 indicating that the case is Pending because of FBI name check.

7. b. Letter from Congressman dated 11/21/2006 indicating that the case is Pending because of FBI name check.

8. In-person inquiry letter for 9/17/2007.

EXHIBITS

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Form I-797 indicating CSC receipt date of N-400, June 21, 2005.

Exhibit 1

WCS001434424

INS Customer Service Number: (800) 375-5283
 U.S. IMMIGRATION AND NATURALIZATION SERVICE
 CALIFORNIA SERVICE CENTER
 P.O. BOX 10400
 LAGUNA NIGUEL CA 92607.

If you have access to the Internet, you can also visit INS at www.uscis.usdoj.gov. Here you can find valuable information about forms and filing instructions, and about general immigration services and benefits. At present, this site does not provide case status information, and

If you have other questions about possible immigration benefits and services, please call the NCS Center at 1-800-375-5283. If you are hearing impaired, please call the NCS TDD at 1-800-767-1833.

You will be notified separately about cases you may have filed. Please contact our office at the below address or customer service number.

INS Application Support Center (ASC) is the agency within the Federal Bureau of Investigation (FBI) responsible for a criminal history check. If we received your application without a fingerprint card (FD-258), or your fingerprint card was received on or after December 3, 1997, you will need to go to an ASC to be fingerprinted. Do not have your fingerprints taken at an FBI office. All naturalization applicants who are between the ages of 14-75 at the time of filing must have their fingerprints taken at an FBI office. All naturalization applicants who are between the ages of 14-75 at the time of filing must have their fingerprints taken at an FBI office. Please inform the office listed below if any address changes.

You will be notified within 365 days of this notice. You should expect to be notified of the date and place of your interview when you have been scheduled by the local INS office. You should

Please verify your personal information listed above and immediately notify our office at the address or phone number listed below if there are any changes.

IMPORTANT NOTICE

Our records indicate your personal information is as follows:

BAKERSFIELD CA 93313

Address Where You Live: 3014 ESPERENZA DR

Date of Birth: February 02, 1938

The above application has been received by our office and is in process, but has been noted with one or more of the following exceptions:

Under separate notice of the necessary evidence(s) that you will be required to bring to your interview, Do not submit any evidence(s) by mail. Missing Evidence(s) - Your application was missing evidence(s) that you will need to provide at the time of your naturalization interview. You will be notified under separate notice of the necessary evidence(s) that you will be required to bring to your interview. Do not submit any evidence(s) by mail.

Single Application Fee: \$390.00
 Total Amount Received: \$390.00
 Total Balance Due: \$0.00

BAKERSFIELD CA 93313

3014 ESPERENZA DR

JASWINDER Kaur

APPLICANT NAME AND MAILING ADDRESS

WCS#001338026

N400 Application For Naturalization

APPLICATION NUMBER

Case Type

NOTICE DATE

NOTICE DATE</p

9	Kaur v. Mueller et al.
8	<i>Petition for Hearing on Naturalization Application</i>
7	Form I-797 from US CIS scheduling Plaintiff for the fingerprinting and fingerprinting
6	completion on September 6, 2005.
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Due to limited seating availability in our lobby areas, only persons who are necessary to assist with transportation or completing the fingerprint workflow should accompany you.

WARNING!



W5C-001338026

APPLICATION NUMBER

If you have any questions regarding this notice, please call 1-800-375-5283. APPLICANT COPY

BARKERSFIELD, CA 93309

SUITE A12

4701 PLANZ RD

INS BAKERSFIELD

15871 ON

TEN PRINTS DA REVIEW BY

Upon receipt of your request, you will be provided a new appointment notice. Please mail your request to:

INS cannot guarantee the day preferred, but will do so to the extent possible. 30 MINUTES DA REVIEW BY

Please reschedule my appointment for the next available: Wednesday afternoon Saturday afternoon

60 MINUTES DA PROCESSING TIME

REQUEST FOR RESCHEDULING

PLEASE DISREGARD THIS NOTICE IF YOUR APPLICATION HAS ALREADY BEEN GRANTED.

2. PHOTO IDENTIFICATION. Naturalization applicants must bring their Alien Registration Card. All other applicants must bring a passport, driver's license, national ID, military ID, or state-issued photo ID. If you appear without proper identification, you will not be fingerprinted.

1. THIS APPOINTMENT NOTICE and

MUST BE MAILED.

WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR FINGERPRINTS TAKEN, YOU

BAKERSFIELD CA 93309

SUITE A12

4701 PLANZ RD

INS BAKERSFIELD

DATE AND TIME OF APPOINTMENT

07/22/2005

02:00 PM

BAKERSFIELD CA 93309

SUITE A12

4701 PLANZ RD

INS BAKERSFIELD

APPLICATION SUPPORT CENTER

07/22/2005

02:00 PM

BAKERSFIELD CA 93309

SUITE A12

4701 PLANZ RD

INS BAKERSFIELD

15871 ON

TEN PRINTS DA PROCESSING TIME

TO PROCESS YOUR APPLICATION, INS MUST TAKE YOUR FINGERPRINTS AND HAVE THEM CLEARED BY THE FBI. PLEASE APPEAR AT THE

BETWEEN 08:00 AM AND 04:00 PM.



BAKERSFIELD CA 93313

3014 ESPERENZA DR

JASWINDER KAUR

APPLICANT NAME AND MAILING ADDRESS

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Form N-652, Naturalization Interview, for first interview.

Exhibit 3

NOTE: Please be advised that under section 366 of the Immigration and Nationality Act, you have the right to request a hearing before an immigration officer if your application is denied, or before the U.S. district court if USCIS had not made a determination on your application within 120 days of the date of your examination.

Before an immigration officer, if your application is denied, or before the U.S. district court if USCIS had not made a determination before an immigration officer, if your application is denied, or before the U.S. district court if USCIS had not made a determination

include a copy of this paper and a copy of the scheduling notice.

Notify USCIS as soon as possible in writing if you cannot come to any scheduled interview or Oath Ceremony.

Go to any Oath Ceremony that you are scheduled to attend.

Registeration Number (A#), and a copy of this paper.

Send any questions about this application in writing to the officer named above. Include your full name, Alien

Submit all requested documents.

Come to any scheduled interview.

Notify USCIS if you change your address.

It is very important that you:

B) A decision cannot yet be made about your application.

A) Confirations! Your application has been recommended for approval. At this time it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for the Oath Ceremony.

You did not pass the second and final test of your English ability. Knowledge of U.S. history and government.

USCIS will send you a written decision about your application.

Please follow the instructions on Form N-14.

You will be given another opportunity to be tested on your knowledge of U.S. history and government.

You will be given another opportunity to be tested on your ability to write English.

USCIS has accepted your request for a Disability Exemption. You are exempted from the requirement to demonstrate English language ability and/or a knowledge of U.S. history and government.

You passed the tests of U.S. history and government and the English language requirement was waived.

You passed the tests of English and U.S. history and government.

You passed the tests of English and U.S. history and government.

C. Chang

A#: 46809134

On 11/14/2005, you were interviewed by USCIS officer

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Form N-14, issued by US CIS after interview date of 2/2/2006 asking for husband's

Exhibit 4

death certificate.

Form N-14 (Rev. 9/12/91)

• A certified copy of the officially registered Certificate of Marriage may be obtained, for the applicable fee, from the Local Register of Marriages (County Recorder of the County where the license was issued).

You have failed to pass your re-examination.

Further review regarding eligibility.

Demonstration of ability to Speak/Read/Write English.

Knowledge of History and Government of the United States.

Recipient of your permanent immigration file.

Rec-Examination on:

Your application is continued for:

The following information is provided for your records. There is nothing further that you need to submit to the Service concerning your case.

Other:

(XX) COPY OF HUSBAND'S DEAD CERTIFICATE.

(XX) Additional documents of information: Marriage Certificate; Divorce Decree; DMV Form H-6; Selective Service; (847) 688-6888; Photographs; Self-examination.

English or from memorizing the history and government questions in your own language. Psychologist. The form must explain the nexus; how your disability prevents you from learning simple English or from memorizing the history and government questions in your own language. Submit Form N-648, Medical Certificate, completed and signed by a licensed medical doctor or a clinical psychologist. (This may be obtained from the Family Support Division of the District Attorney's Office in the County where you reside.)

Proof of Child Support: Balance and payment history for:

Arrest date(s) _____ City: _____ Case No(s): _____

Submit Original/Certified Copies of the final court dispositions for:

Failure to do so may result in the denial of your application.

INFORMATION and/or DOCUMENTS BY: March 2, 2006

Examination of your application (N400) shows that additional information, documents or forms are needed before your application can be acted upon. Please RETURN THIS LETTER WITH REQUESTED

Officer: CHRISTIN TURNER

File No.: A 46 809 134

DOB: 2-2-38

JASWINDER KAUR

Resno, CA 93721

1177 Fulton Mall

Citizenship and Immigration Services

U.S. DEPARTMENT OF HOMELAND SECURITY



Plaintiff's cover letter submitted along with death certificate on 2/20/2006.

Exhibit 5

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Jaswinder Kaur

Yours Sincerely,

תְּהִנֵּה יְהוָה.

Please find my husband's death certificate attached to this letter with English translation. On April 7th, 1999 we and my husband we both got visa to come to the United States at the same time. After that on April 25th, 1999 my husband died in a heart attack before the same time. Please feel free to contact me at the above address if you need any further information.

Dear Officer,

Subject: Husband's Death Certificate and Explanation.

U.S. Department of Homeland Security
Citizenship and Immigration Service
1177 Fulton Mall
Fresno CA 93721
ATTN: Officer G. Hernandez

D.O.B. 2-2-1938
A# 46809134

661-832-2887
Bakertsgeld Ca 93313
3014 Espenenza dr
Jaswinder Kaur

Plaintiff Inquiry Letter dated 6/4/2006.

Exhibit 6

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Leewinder Kaur

Yours sincerely

Thank you,

I was interviewed on February 2, 2006. All the documents requested were mailed and received in your office on February 22 by the certified mail. Could you please be kind enough to let me know the status of my application? Also feel free to contact me at the above address if you need any further information.

Dear Officer,

Attention: Officer G. Hermsen

Subject: Application Status

U.S. Department Of Homeland Security
Citizenship and Immigration Service
1177 Fullerton Mall
Fresno, CA 93721

Application # WSC-001338126
A# 046 809 134

[REDACTED]

D.O.B. 2-2-1938

Leewinder Kaur
3014 Esperanza Dr.
Bakersfield, CA 93313

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case is pending because of FBI name check.
a. Letter from Congressman dated 8/8/2006 indicating that the case is pending because
of FBI name check. b. Letter from Congressman dated 11/21/2006 indicating that the

Exhibit 7

DAC/lmm

DENNIS CARDDOZA
Member of Congress



Sincerely,

I appreciate the opportunity to be of assistance to you

I have been notified by the Citizenship and Immigration Service that the FBI name check is still pending for your file. You will receive further processing information directly from the CIS.

Dear Ms. Kaur:

Ms. Jaswinder Kaur
729 Redfield Avenue
Modesto, CA 95357

August 8, 2006

Subcommittee on the Middle East and Central Asia
Subcommittee on International Relations
Subcommittee on Non-Proliferation
Subcommittee on Oversight and Government Reform

COMMITTEE ON INTERNAL RELATIONS
Subcommittee on Water and Power
Subcommittee on Oversight and Government Reform

Subcommittee on Resources
Subcommittee on Science and Technology
Subcommittee on Small Business

COMMITTEE ON RESOURCES
Subcommittee on Environment and Energy
Subcommittee on Oversight and Government Reform

COMMITTEE ON SMALL BUSINESS
Subcommittee on Small Business
Subcommittee on Oversight and Government Reform

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
Subcommittee on Oversight and Government Reform

COMMITTEE ON AGRICULTURE
Subcommittee on Agriculture, Rural Development, and Forestry

COMMITTEE ON HOMELAND SECURITY
Subcommittee on Homeland Security

COMMITTEE ON FINANCIAL SERVICES
Subcommittee on Financial Services

COMMITTEE ON GOVERNMENT REFORM
Subcommittee on Government Reform

COMMITTEE ON ETHICS
Subcommittee on Ethics

COMMITTEE ON THE JUDICIARY
Subcommittee on the Constitution

COMMITTEE ON THE HOMELAND SECURITY AND INVESTIGATIVE SERVICES
Subcommittee on Homeland Security and Investigations

COMMITTEE ON THE HOMELAND SECURITY AND INVESTIGATIVE SERVICES
Subcommittee on Homeland Security and Investigations

WASHINGTON OFFICE:
445 Cannon House Office Building
Washington, DC 20515
(202) 225-9131
DISTRICT OFFICES:
2222 M Street, Suite 300
Members CA 95366
(202) 333-4446
3900 Peachtree Street, Suite 300
Members GA 30309
(202) 555-4446
1321 18th Street, Suite 1
Members CA 95364
(202) 555-1848
137 East 23rd Street
Members CA 95362
(202) 544-0741
350 California Street, Suite 1
Members CA 95360
(202) 226-9131
18th District, California
Subcommittee on Agriculture
Subcommittee on Small Business
Subcommittee on Homeland Security
Subcommittee on Oversight and Government Reform
Subcommittee on Financial Services
Subcommittee on Government Reform
Subcommittee on Ethics
Subcommittee on the Constitution
Subcommittee on Homeland Security and Investigations
Subcommittee on Homeland Security and Investigations

DAG/m

DENNIS CARDOSA
Member of Congress

Sincerely,

I trust this information is helpful to you.

I thank you for your continued support and understanding regarding the difficulties you have been experiencing with the Citizenship and Immigration Service and your naturalization application. After numerous inquiries with the CIS, I have been informed that your FBI name check is still pending. Once the security checks clear, you will receive further processing information directly from CIS.

Dear Ms. Kaur:

729 Redfield Avenue
Modesto, CA 95357
MS. LASWIMDER Kaur

157 EAST WEBER AVENUE
SACRAMENTO, CA 95820
(209) 946-0361

1821 N STREET, SUITE 1
MOSCOW, ID 83843
(208) 875-1914

2221 N STREET, SUITE 305
MEREDITH, CA 95340
(209) 382-4455

303 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 226-1621

WASHINGTON OFFICE:
1000 K STREET, SUITE 1000
WASHINGTON, DC 20004
(202) 226-1621

Challenges of the Climate Starts Use of Representations Data migration, QC 20515-0518

In-person Inquiry Letter for 9/17/2007.

Exhibit 8

Kaur v. Mueller et al.
Petition for Hearing on Naturalization Application

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ASW, NDS&RE Kaur
 (SILVER)
 15 KULBIR BHALA
 AUTOMATIC TALK TO INS ON
 my SNO

- Please be on time. Failure to show up on time will result in the cancellation of your appointment. You will then need to reschedule your appointment. You will not be admitted more than 15 minutes before your scheduled appointment time.
- You must appear in person and bring photo identification along with this appointment letter.
- Acceptable forms of identification are any of the following: Government issued identification, passport, valid driver's license, I-94, Work Authorization Card, or Permanent Resident Card. (Green Card)
- In order that we may serve you more efficiently, we recommend that you bring all applicable immigration forms, letters, receipts and supporting documents. If translations are used, they should be certified. Please bring the original documents as well.

49036

If you wish to cancel this appointment, you will need the following Personal Identification Number:



This is Your Confirmation Number:
 FRE-07-9673

Name: Jaswinder Kaur
 Appointment Type: Speak to immigration officer
 Confirmation No.: FRE-07-9673
 Authentication Code: 17353
 Appointment Date: [REDACTED]
 Appointment Time: 8:50 AM
 Location: 1177 FULLON MALL, Fresno, CA 93721, LOBBY